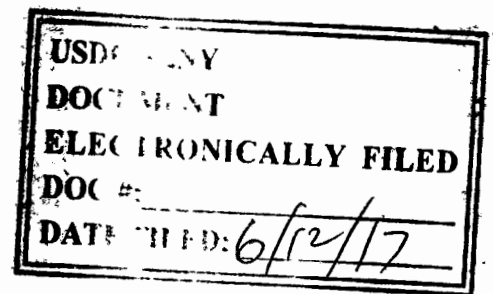


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____	x	
In re AMERICAN REALTY CAPITAL	:	Civil Action No. 1:15-mc-00040-AKH
PROPERTIES, INC. LITIGATION	:	
_____	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	x	

F.R.E. 502(d)-(e) JOINT STIPULATION AND ~~PROPOSED~~ ORDER
GOVERNING THE ARCP AND ARC DEFENDANTS'
LIMITED DISCLOSURE OF PRIVILEGED DOCUMENTS



Defendants American Realty Capital Properties, Inc., ARC Properties Operating Partnership, L.P. (together, the "ARCP Defendants"), AR Capital, LLC, ARC Properties Advisors, LLC, Scott Bowman, Peter Budko, Brian Jones, William Kahane, and Edward M. Weil (together, the "ARC Defendants") (collectively with the ARCP Defendants, "Defendants"), together with Class Plaintiffs in the above-captioned action, by and through their undersigned counsel, hereby agree and stipulate, pursuant to Federal Rule of Evidence ("F.R.E.") 502(e) and—subject to the approval of the Court—F.R.E. 502(d), to this agreement and consent order ("Consent Order") concerning documents over which Defendants have heretofore asserted privileges and protections, including the attorney-client privilege and the work-product doctrine.

WHEREAS, on May 18, 2017 the Court entered an order that Defendants shall provide revised privilege logs to Class Plaintiffs by June 6, 2017; and

WHEREAS, the May 18, 2017 order requires Class Plaintiffs to respond to Defendants' revised logs by June 22, 2017, and to promptly meet and confer, and for a hearing to be held to determine all outstanding privilege issues on July 18, 2017; and

WHEREAS, Defendants intend to produce to plaintiffs privileged or protected documents that Defendants believe are likely to be irrelevant or of limited significance to the disputed issues in the litigation; and

WHEREAS, although Defendants wish to facilitate the elimination of discovery disputes, Defendants do not intend or wish to waive any applicable legal privileges they may be able to assert over any document that is properly withheld on grounds of privilege as recorded in Defendants' existing privilege logs; and

WHEREAS, the parties have met and conferred concerning the scope of this Consent Order, and Defendants have represented that the documents being produced pursuant to this

Consent Order will be clearly identified and designated separately from any documents for which Defendants elect to withdraw a previously asserted claim of privilege or protection; and,

WHEREAS, documents subject to this Consent Order cannot be used by any party absent the Court's determination that the document is not privileged or otherwise protected from discovery.

NOW THEREFORE IT IS HEREBY AGREED [AND ORDERED]:

1. Pursuant to this Consent Order, the Defendants shall produce documents to the Plaintiffs on or before June 13, 2017 over which Defendants have previously asserted privileges and protections, including the attorney-client privilege and the work-product doctrine. In the event this order has not been entered by June 13, 2017, Defendants will produce these documents as soon as practicable after the order is entered.

2. Defendants shall clearly identify each document by Bates number that is being produced pursuant to this Consent Order, and the ARC Defendants shall identify the entry in their previously provided privilege or redaction log that corresponds to each document.

3. Pursuant to F.R.E. 502(d) and F.R.E. 502(e), no person shall argue in this or any other forum, proceeding, or investigation that the production of documents pursuant to Paragraph 1 of this Consent Order constitutes a waiver of any privilege as to the particular documents produced or constitutes a subject matter waiver with respect to any other document relating to the subject of a document produced pursuant to Paragraph 1 of this Order.

4. Nothing in this Consent Order shall prevent any party from challenging any assertion of privilege, protection or immunity over a document produced pursuant to the Consent Order, or arguing that Defendants have effected a subject matter waiver in connection with actions taken (or documents produced) outside of the scope of this Consent Order. The challenging party

shall be permitted to use any document that is the subject of this Consent Order to challenge any assertion of privilege, protection or immunity over that document.

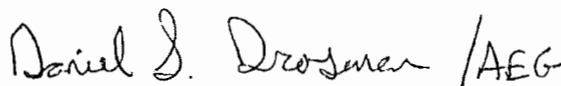
5. Nothing in this Consent Order shall be construed to supersede the Court's May 18, 2017 Order. On the contrary, pursuant to the May 18, 2017 Order, Defendants "shall review their privilege logs to eliminate all documents not properly covered by the privilege."

6. Documents produced under this Consent Order shall be subject to, and afforded the protections of, the Joint Stipulation and Protective Order entered by the Court on November 15, 2016.

Dated: New York, New York
June 6, 2017

Respectfully submitted,

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DEBRA J. WYMAN
JESSICA T. SHINNEFIELD
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ANGEL P. LAU

Handwritten signature of Daniel S. Drosman in cursive, followed by the initials "AEG" in a stylized font.

Daniel S. Drosman

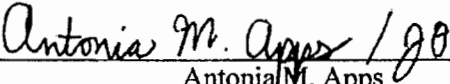
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*Lead Counsel for Lead Plaintiff TIAA and the
Class*

Dated: New York, New York
June 6, 2017

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*Attorneys for Defendants American Realty Capital
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Dated: Washington, DC
June 6, 2017

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ANDREW E. GOLDSMITH
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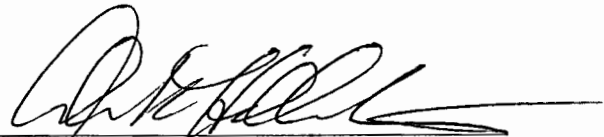
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Defendant ARC Properties Advisors, LLC,
Defendant Scott J. Bowman, Defendant Peter M.
Budko, Defendant Brian D. Jones, Defendant
William K. Kahane, Defendant Edward M. Weil*

SO ORDERED.

Dated: New York, New York
June 12, 2017



ALVIN K. HELLERSTEIN
United States District Judge